

TO: Austin Planning Commission
FROM: Terry Mitchell
DATE: May 12, 2020
RE: ITEM: B — 23: F#10076-1901 – ROW Vacation; District 1, 809 East 9th Street

Dear Planning Commission:

My name is Terry Mitchell. I am a developer and I was part of a team that developed The Tyndall at Robertson Hill, a condominium community next door to the subject property. I am writing not in my capacity as a neighbor, but as a concerned citizen – that we, as a city, would permit a project to be built with the risks that would be forever be present to the residents of this project and to the residents of the Tyndall.

If you know me, you know that I support “density” and “compactness” — those two planning tools may well be the only tools that help our City with the coming financial constraints imposed by the low-density form of development (that is so costly) and the steps taken by our State to limit growth of cities. Literally, the only real solution to the coming financial challenges to be faced by Austin (and other large Texas cities) will be to add more tax revenue per acre (density) to address this challenge.

And if you know me, you know that I strongly support all forms of affordable housing, especially for seniors. Over 100 million of our U.S. citizens live on less than \$30,000 per year. Housing and transportation costs eat up these meager funds and cause so many to struggle to live. My company is presently building 88 affordable condominium homes on Westgate Boulevard (<https://canopyatwestgate.com/>), ranging in price from \$168,000 to the low \$200,000 range, in an area where the median home price is around \$340,000. I get it.

Nevertheless, supporting density and affordable housing is not an excuse to approve an ill-conceived project that puts a risk the residents of this proposed project and the residents of the Tyndall.



Fire safety is of utmost concern. When the Tyndall went through the review process, much work and limitations were imposed to guarantee proper fire safety. For example:

- You will note that the Tyndall (phot above) has adjacent fire safety access on three separate streets — 9th Street (where this proposed project is located), Embassy Street, and 8th Street.

- Because fire safety (and emergency services) are so important, parking adjacent to the Tyndall was prohibited along these streets so that fire and emergency services equipment could readily access the building.
- Along the western side of the Tyndall, the Fire Review insisted that we setback 10 feet from the property line — in the name of fire safety – and build a fire wall to prevent a fire from the neighbors preventing our residents from being able to get out of the building. They noted that if the residential house were to catch fire (which had previously happened!), they did not want the fire to “jump” and climb up the Tyndall.

We agreed to these limitations because the safety of our residents and our neighbors is paramount.

Secondarily, as we (as a City) move towards density, the availability of “amenities” — public parks, trails, service and on-site amenities become even more important. In a single-family neighborhood, front and back yards are gathering places for neighbors to congregate.

In the case of the Tyndall, there were no public parks or trails or other public amenities nearby. So, as part of the plan for the project, over 23,000 square feet of open space and gathering spaces were created so that residents could share life together. While this may seem unimportant, over time, the gathering spaces are what make a place a home.

You have before you an alley vacation that seems to be an easy decision — allow the alley vacation and 24 senior affordable units will be built. The site plan approval (as I understand it) will happen when this alley is vacated.

When this alley is vacated, however, we as a City may well not want what will result. We will be allowing a project to be built that (1) puts lives at risk, both at this project and at the Tyndall, and (2) does not serve well the residents that will live there. Let me explain:

Fire Safety and Emergency Services Issues

- The site plan, as proposed, is not in compliance with the City Fire Access Road Requirements. Under Section 4.4.0 of the City Fire Protection Manual, fire department access roadways longer than 150 feet that terminate at a dead-end must have approved provisions for turning around fire trucks. These “turn-around” requirements are fulfilled when there is a cul-de-sac, a “T-section” or “hammerhead” turnaround. None of those turnaround measures exist here. This road, 9th Street, a dead-end street, is over 250 feet in length (I measured about 275 feet).
- The only way that I see any argument that this could be approved is that one would argue — on a map — that the project



abuts the IH 35 frontage road and fire and EMS access could happen there.

The problem with that argument (as shown to the right) is that the IH 35 frontage road is about 25 feet below the site and the only access is a steep hill. This problematic for several reasons:



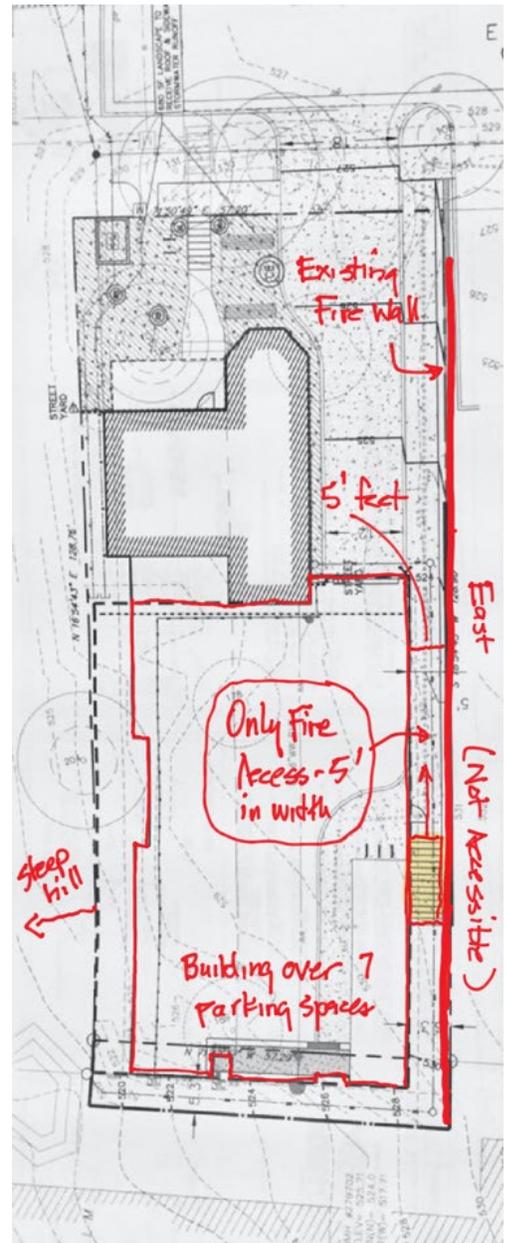
- The building is proposed to be 70 feet tall. Now, with adding 25 feet from the frontage road, fire equipment cannot reach the upper portions of the building.

- If there is an EMS emergency (heart attack, stroke, other emergency often affecting seniors), and if 9th Street is blocked, EMS personnel will be attempting to climb a steep hill to save someone's life.

- Equally as important, this hill provides no secondary access for the residents in the case of a fire. Note the proposed site plan shows the only stairwell access is on the east side of the building. This means that, in case of a fire, these senior residents (many are often physically-impaired) must go down as many as 7 flights of stairs and then walk along a five foot space between the building and the fire wall (we were required to build and they cannot access our ten-foot fire access lane due to the fire wall).

- This is the exact OPPOSITE of what we were told by Fire officials when we were obtaining approvals. When we were building our building (note the first photo above), we were required (even though the development code had only a 5' setback) to setback TEN FEET from the adjacent property — and build a fire wall (about 8 in height) because fire officials were concerned about a fire on our property jumping over to this property in question. Second, we were told that our residents needed that ten feet in case of fire to be able to safely get out of the building.

- Why then do we approve a five-foot walkway for a building that is taller than the Tyndall (70' compared to 60') where folks who are generally LESS MOBILE than the public at large to have as their ONLY access away from the building in case of fire? In addition to this 10-foot fire access area, the Tyndall has two other fire evacuation routes so that on one is dependent on one route that could be compromised. Is it right to approve because it is



“affordable” and put the residents at risk? Why was there so much concern about fire safety about the Tyndall that ten feet was required for safety, but now for affordable senior units, that same fire safety is not needed? That result makes no sense and creates a situation that screams of neglect.

- Even if the City somehow believes there is no risk here (and the City is putting these senior residents at risk), why is the City now approving a project that puts the Tyndall residents at risk? If the Tyndall needed to set back 10 feet to prevent a fire from jumping to the neighbor, why is it okay for the neighbor to build within 5 feet and create that same fire risk for the Tyndall residents?

What we will do here is create a tremendous fire and EMS safety risk. As a private developer, the City would never approve such a situation for a market rate project. And, we would never even propose a project that puts our residents at risk. I do not understand why and how this variance could be approved — which puts the new project’s residents and the Tyndall residents — at risk.



The 9th Street access is often blocked. Trash and recycling are accessed off 9th Street. Anyone moving into the Tyndall accesses the Tyndall on 9th Street in the northwest corner of the building. So, if the trash truck is there, or someone is moving into the Tyndall, fire and EMS access will not be available. Even the picture from Google maps shows the difficult situation where a small bus is trying to turn around on 9th Street. (Note that the trash bin is out for pick up. If the trash truck is there, no access.)

Your approval of the vacation of the alley permits this situation to occur.

The Design of the Project Hurts the Residents

Equally as important, when one designs a project, you seek to ensure that the residents will have a great quality of life. There are several issues here that I believe are not good for the residents:

- The project has 24 units and is slated to have 7 parking spaces, only one of which is a handicap parking space.
 - If you know me, you know that I am a proponent of transit and will support projects with little or no parking — but only when transit is available.

- Here, the closest bus lines are on 7th Street (three blocks away, down a hill and, depending on the direction, crossing a four-lane road) or 11th Street (again, three blocks away).
- Three blocks away does not sound like a long way, however, seniors have a much more difficult time traveling, especially carrying groceries or any purchased goods. My mother lives in a senior living center and she, and her friends, have trouble walking 200 feet to the common areas.
- Seniors need additional care. In the senior projects with which I am familiar, the developer understands that additional services are often needed and expect daily access to serve those residents (nursing care, assistance personnel, family visits).
- In the four senior projects with which I am familiar, between 50 and 60% of the residents have automobiles, and one case it rises to close to 80%. Where will these folks park?
- If they do not have a car, we are expecting them to walk three blocks (in Texas heat) to go anywhere. One may say “They will use Metro Access”. Cap Metro is so challenged today – it is the best way (and eventually will be the only way) to help our city residents move about the City — but that can only be accomplished on fixed routes carrying large numbers of people. Metro Access is the costliest service Cap Metro provides — This service has historically represented 17% of Cap Metro’s budget while representing only 2% of its riders. The more Cap Metro expands this service, the less money is available to serve the citizenry at large. Therefore, Cap Metro advises all developers, especially those that will rely on transit, to locate along transit corridors so that Cap Metro can efficiently provide service to them. This project does not meet that criteria.
- More than any other demographic, quality amenity and open space is critical to our seniors, who are less mobile than the rest of society. When you look at a project like Wildflower Terrace (in Mueller) serving the same demographic, one sees a garden, an art studio, a theater and a large community room. Here, the contemplated project provides no open space for its residents. In lieu of the open space, it will provide benches. What quality of life is there for residents who cannot have a car (because there is no parking available) and cannot access transit (because it is too far away)? The plans indicate that the existing home (see below for its intended use) will be about 1,100 square feet of amenity space for the 24 residents and their guests. Amenity space needs to be open for folks to gather — not chopped up into small rooms where gathering is limited. When these demographic needs more on-site amenities, the project is providing less than half of what the Tyndall provided for its residents (1,100 sf house/24 units = 45.8 sf per unit; 23,000 sf amenities/182 units = 126 sf per unit). Do we expect the residents just to sit in their rooms?
- The City has already invested in this project as it provided the funds to rehabilitate the single-family residence to be used as an affordable home for a family. If I understand that funding (back in 2016 or thereabouts), the funding was to rehab a single-family affordable home to rent to a family. The house had burned (an omen?) and either had to be substantially rehabbed or torn down. Would the City have provided those funds if it knew

that the home would not be used for an affordable single-family home, but become an amenity for another project that requires millions more in subsidy to work?

- This form of construction will cost between \$250 to \$300 per square foot to build. If each unit is 700 square feet (we have asked for plans, but the City cannot provide them to us), that means that each unit will cost up to \$210,000. A large subsidy per unit will be needed to make these units affordable at the rents proposed by the developer. The project budget (a guess, but somewhat educated) will be between \$5,000,000 and \$6,000,000. The subsidy to make this project work will be in the millions of dollars.
- I am all for more and more affordable units being provided, but affordable housing can be provided for far less. For example, the Canopy at Westgate, which is our project, has a subsidy of about \$13,600 per unit — in total. How much per unit will this project need?

Summary

If we are to maximize the provision of affordable places for our residents to live, we must:

- Build projects that do not compromise fire safety and EMS access to many residents, especially those most at risk in case of a fire – seniors.
- Build projects that enhance living by creating public or private gathering places in sufficient quantities that allow people to live well.
- Provide either vehicular or transit access for residents to access food, work and satisfy other needs and services to live well.
- Make judicious use of our collective resources to reach as many folks as we can. (For example, if one has \$2.4 million to subsidize a project, that is \$100,000 per unit for a 24-unit project. For another project using \$14,000 per unit as a subsidy, that generates 171 units.)

Unfortunately, I do not believe this project provides any of those benefits to our citizenry. With approval of this right-of-way vacation, we are allowing something to be built that sets a bad precedent for how things should not be built. This type of development is generally not allowed either under the existing land development code or the proposed land development code. It is sad that it may happen here.